

TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS
NEW WINDSOR, NEW YORK

July 25, 2011
7:30 p.m.
New Windsor Town Hall
New Windsor, New York

ZONING BOARD MEMBERS:

MICHAEL KANE, Chairman
FRANCIS BEDETTI, JR.
RICHARD HAMEL
PATRICK TORPEY
HENRY SCHEIBLE

ANDREW KRIEGER, Attorney
NICOLE PELESHUCK, Secretary

MR. KANE: I'd like to call the Town of New Windsor Zoning Board of Appeals regular session July 25th, 2011 to order.

Roll Call:

Mr. Scheible	Here.
Mr. Bedetti	Here.
Mr. Hamel	Here.
Mr. Torpey	Here.
Mr. Kane	Here.

MR. KANE: Okay, tonight's first preliminary meeting Paul DeMeo, a variance requested for an existing 8-foot by 28-foot front porch does not meet minimum front yard setback of 45 feet located at 18 Willow Parkway in an R4 zone. Mr. DeLeo?

In New Windsor we hold two meetings, one is a preliminary meeting so that we can get a general idea of what you want to do and make sure you have the proper information for us to make a decision. Other towns hold one meeting and if they don't have everything that they need to make a decision you lose. So everything the Board has to do has to be done by a public meeting as far as our vote on it, so this will give you the opportunity to tell us what is going on. Name, address, speak loud enough for that young lady over there to hear you.

MR. DELEO: I'm Paul DeLeo, 18 Willow Parkway. Thank you. We are moving so we decided to call the Town Hall to get the assessor's office and building inspector to come out to our home to make sure we had all the permits right to what we have done. Come to find out we didn't know we needed a permit for the generator, okay, so we got one. Then something about the front porch. And they said it was too close to the road. My maps have the porch on it and the Town doesn't. So what I decided to do was not to fight it, I decided to pay the fines or whatever permits, whatever I had to do and I was told to come here on this date.

MR. KANE: Okay. First couple of questions, in the building of the porch did you cut down any trees, substantial vegetation --

MR. DELEO: Sir, I never -- I didn't put the porch on, sir.

MR. KANE: -- that you know of? Was the porch there existing?

MR. DELEO: Yes. Like I said I didn't want to turn in my neighbors, get them involved, Ann Smith has been living there for over 25 years. The porch has been there. So I didn't do anything about cutting trees. John Tipton lived there.

MR. KANE: I understand. There are certain questions I have to ask you and you need to answer.

MR. DELEO: Oh, okay.

MR. KANE: Okay? It's just they're standard questions, okay?

MR. DELEO: All right.

MR. KANE: So no trees, no vegetation. Was the porch there when you purchased the house?

MR. DELEO: Yes.

MR. KANE: What year did you purchase the house?

MR. DELEO: 1997, September.

MR. KANE: So to your knowledge there was no cutting down trees or substantial vegetation?

MR. DELEO: That's right.

MR. KANE: To your knowledge the building of the porch has not created any water hazards or runoffs?

MR. DELEO: No.

MR. KANE: Any easements running through the area where the porch is located?

MR. DELEO: Oh, no, no.

MR. KANE: The porch is similar in size and nature to other front porches that might be in your neighborhood?

MR. DELEO: Not in our neighborhood but one was put on, going out towards, the ranch, going out towards on 94 and it's a blue house and they put a similar type porch on. But nothing in my neighborhood, no.

MR. KANE: The porch seems to extend 6 feet out from the front of the house?

MR. DELEO: Yeah, roughly.

MR. KANE: Roughly. I'm just going by a picture here. Does the front of the porch extend further closer to the road than the front of the other homes on your street? Do you follow?

MR. DELEO: Yeah. Other porches --

MR. KANE: If not, it's a preliminary hearing, this way what you can do is take a view picture from the front of your porch just going down the street either way, if you would.

MR. DELEO: Okay.

MR. KANE: And a picture from the street all the way out from the street looking at the front of your house. Since you have owned the home have you had any complaints formally or informally about the porch?

MR. DELEO: No, sir.

MR. KANE: Further questions from the Board?

MR. BEDETTI: How long did you say that porch was on? You purchased it in '97.

MR. DELEO: '97.

MR. BEDETTI: It was there prior to that?

MR. DELEO: Yes, sir.

MR. SCHEIBLE: It was there when you purchased it?

MR. DELEO: Yes.

MR. BEDETTI: Over 14 years?

MR. DELEO: Yeah.

MR. SCHEIBLE: Was there any question brought up at that time when you were purchasing the house? Was there any kind of special dispensations made or something from the Town? I wasn't on the Board at that time.

MR. DELEO: No. The only thing I know --

MR. SCHEIBLE: Was it ever brought to the building inspector or anything like that?

MR. DELEO: I don't believe so because they would have shown on their map. And I got it here, the Town doesn't. The only thing the assessor did was measure the back deck, that's the only thing. Nothing about the front porch.

MRS. PELESHUCK: There is nothing in the building department file about that porch.

MR. SCHEIBLE: Okay.

MR. DELEO: Thank you.

MRS. PELESHUCK: You're welcome.

MR. KANE: Further questions from the Board? I'll accept a motion.

MR. BEDETTI: I'll make the motion that we schedule a public hearing for Paul DeLeo regarding a front porch at 18 Willow Parkway in an R4 zone.

MR. TORPEY: I second that.

Roll call:

Mr. Scheible	Yes.
Mr. Bedetti	Yes.
Mr. Hamel	Yes.
Mr. Torpey	Yes.
Mr. Kane	Yes.

MR. KANE: Tonight's first public hearing American Petroleum C/O Bob Giaimo, a request for a proposed free-standing sign requires a variance of 4-foot in height and a variance for allowable square foot of sign face is 60.5 square feet located at 204 Quassaick Avenue in an NC zone.

The same as the Preliminary tell us exactly what it is you want to do. Speak loud enough for this young lady to hear.

MR. SHAH: My name is Sandy Shah, I am the owner of the Sunoco station.

MR. GIAIMO: I am Bob Giaimo, I am a sales representative for American Petroleum, and we would be his contractor.

MR. KRIEGER: Do you own it yourself or is it as a corporation?

MR. SHAH: LLC, Corporation.

MR. KRIEGER: It's a corporation? And you're an officer of the corporation?

MR. SHAH: Yes.

MR. KRIEGER: You're authorized to represent the corporation?

MR. SHAH: Yes.

MR. KRIEGER: Thank you.

MR. SHAH: We request a sign for like little bit higher because it's a standard requirement from the Sunoco. We have a few different variant signs and they have all like same height.

MR. KANE: Is there an existing free-standing sign there at the time?

MR. SHAH: Just for like a loose one, it's not any fixed sign right now. We just put on the land just for a temporary.

MR. KANE: All right, so no existing free-standing.

MR. TORPEY: There is one metal pole out there with the sign with the gas prices on it, no sign.

MR. KANE: Is that a permanent sign or is that a temporary sign?

MR. SHAH: That was a temporary sign.

MR. GIAIMO: It's not a sign, it's a vent pipe. It is a metal pole. We're not going to need that one no more.

MR. SHAH: We already took it out.

MR. SCHEIBLE: What is the reasoning for going so high? Is that for view?

MR. SHAH: There's a standard from Sunoco, a few different signs they printed out, they all have the same height.

MR. SCHEIBLE: But it's a standard requirement for what area?

MR. SHAH: The Sunoco, from Sunoco company, Sunoco gas company.

MR. SCHEIBLE: You mean every Sunoco station has it this high?

MR. SHAH: Yes.

MR. SCHEIBLE: Every Sunoco station?

MR. GIAIMO: That is their standard.

MR. SCHEIBLE: Their standard. But not necessarily every Sunoco station has to have it this high?

MR. GIAIMO: I couldn't swear to that, sir.

MR. SCHEIBLE: Is that because of the view? Are you worried that people down the road wouldn't see it properly or what is the reason to go that high?

MR. GIAIMO: In this case we felt that if the sign were this high you would have an unobstructed view

of traffic when it was at the stop light at Union Avenue looking toward Quassaick. If we drop it down it will be some, there could be some obstruction. We can't tell that for sure but that is the reason.

MR. SCHEIBLE: I've driven passed it numerous times since your preliminary meeting and there's quite a bit of sight distance from both, all directions there, from both directions.

MR. GIAIMO: Well, the higher the sign the more visibility from a longer distance. From a marketing point of view it adds to, hopefully adds to the traffic that will stop at this station.

MR. TORPEY: That sign is not going over top of the canopy, it's the same height as the canopy?

MR. SHAH: It's the same height, not much, maybe like a couple of feet, I'm not sure.

MR. KANE: Is the sign illuminated in any way?

MR. GIAIMO: Internally, sir.

MR. KANE: Flashing, nonflashing?

MR. GIAIMO: Nonflashing. The price signs are digital LED. The Sunoco logo is an internal fluorescent, it does not flash.

MR. HAMEL: Also you have along the canopy it does say Sunoco and I think probably three sides of the canopy and also along the building Sunoco.

MR. SCHEIBLE: So this picture is an older picture?

MR. SHAH: This was like when we were doing renovations, so they didn't do all the signs.

MR. SCHEIBLE: Just to reiterate I want to ask for my own satisfaction but we do have the Sunoco logo on how many different sides of that canopy right now? It's going to be all three sides?

MR. SHAH: I think two sides Sunoco and one side

is the logo.

MR. TORPEY: It is a Sunoco station?

MR. SHAH: It is a Sunoco station.

MR. GIAIMO: I think what we're asking for here is what's typical of I'm going to say the majority of Sunoco stations that you would see traveling across the state and/or the east coast. Sunoco is not too popular. Their main focus of marketing is the east coast. If you go west you probably will not see too many Sunocos.

MR. KANE: If this proposal is granted with the free-standing sign what's your intention with the other signs that are out there on that corner?

MR. SHAH: We're going to move it out, the other ones. The red one you are looking at now with the gas price, we are going to take it out.

MR. TORPEY: We talked about that the last meeting.

MR. KANE: It's a public hearing, we need to make it public.

MR. SHAH: It's going to be removed, the red sign.

MR. KANE: The blue one?

MR. SHAH: The blue one is already moved out.

MR. KANE: That's already gone?

MR. SHAH: Yes, the blue one is gone. The red one will be gone once we get the free-standing sign up.

MR. SCHEIBLE: Approximately how high was the one that you removed so you get a perspective here of the height? The one that you just said that was moved, approximately how high was that, just to get a perspective how high the other one would be?

MR. GIAIMO: The canopy, the top of the canopy is probably about 16, 17 feet most likely. Maybe

it's like 14 feet underneath and then about three and a half feet to the top of the canopy. I would say that it's probably 17 or plus feet to the top. So to answer your question the blue sign if it's removed is probably about 12 feet.

MR. SCHEIBLE: 18.

MR. GIAIMO: Yes.

MR. KANE: Okay, let's handle the public portion of this meeting and get that out of the way and then we can bring it back. Is anybody here for this particular hearing? Seeing as there's not I'll ask Nicole how many mailings we had?

MRS. PELESHUCK: On the 12th day of July 2011 I prepared 31 addressed envelopes with no written response back.

MR. KANE: Okay.

MR. BEDETTI: At the last meeting there was a couple of suggestions, one was the removal of the Sunoco to bring it down just to within code essentially. And you also made a comment that well if this was a real requirement that we were going to force on you there's no big deal you can cut the post, they are only iron posts, you can meet the code. I certainly could appreciate the fact that Sunoco has a standard sign throughout the country et cetera. And we in the Town a number of times on the Board here where national companies have their preexisting logos and signs, but we do have Town code here. And I would think that the fact that we do have a Town requirement that you go out of your way to try to meet the requirement rather than just say well, you know, this is a national company, this is their sign and you know this is what you get. What's your comment relative to bringing that sign down to within code? Not necessarily even removing the Sunoco logo. You said you just had to cut the pipes and reduce them 4 feet you could do that.

MR. SHAH: If we do that the sign is going to be real low.

MR. BEDETTI: I understand. I mean you say it's going to be real low. Relative to sight distance I go by there probably a half a dozen times a day, there are cars parked out there, whether they are employee cars or whatever in that area that would block that sight distance anyway. But I don't swallow the fact that if you reduce that by 4 feet that it's going to be a safety hazard so to speak. I mean I think there is, it's a pretty open, you can see you have pretty good sight distance in both directions. I would certainly like to see you conform to the code, certainly on the height. And that's the only comment that I have.

MR. KANE: How high was the canopy?

MR. SHAH: The canopy is going to be probably around 14.

MR. GIAIMO: The canopy is about 13 6. Underneath it is about three and a half feet of fascia so 16.

MR. SHAH: 16, 17 feet.

MR. GIAIMO: Maybe 17 feet at the top, 16 or 17 depending on where you measure from grade, it's got a slight dip on the side.

MR. TORPEY: Just the emblem on top of the sign is what is killing you, because it's almost 2 feet there, the Sunoco emblem.

MR. SHAH: It's almost 14.

MR. KANE: My own feeling on it is that I can understand the need for having the higher sign, I definitely don't want to see it higher than the canopy in that particular corner. But I'm just one of five.

Other questions, gentlemen?

MR. BEDETTI: I'm good.

MR. KANE: And that covers the height. The variance for allowable square foot of the sign is 60.5 feet as far as a variance. That includes the Sunoco logo up on the top?

MR. GIAIMO: Yes, sir.

MR. KANE: And all of that down below and New Windsor squares off?

MR. SHAH: Right.

MR. KANE: I think bringing the sign down to 17 feet instead of the 19 feet equaling the height of the canopy will, I just think it makes it a better look going down that particular road, but that's my feeling on that.

MR. GIAIMO: I'm his contractor so if he wants me to do that I'll do that.

MR. SCHEIBLE: That's not really without too much difficulty to change that.

MR. GIAIMO: Well, it's welding, it's cutting. It's things that are done every day.

MR. KANE: But again that's your choice. We can vote on the application as submitted or make an adjustment, but that becomes your choice to decide if you want to adjust it or not.

MR. BEDETTI: That section of the sign official fuel of Nascar, I mean I can understand the Sunoco, the label and that's something that people look for but that's just, that's extreme advertising.

MR. KANE: And Nascar probably pays them a fortune to have that name on it too.

MR. GIAIMO: Whatever it is he doesn't get it.

MR. SHAH: I don't get it. On top of that I'm paying for this one and it's like it's really expensive, that's the reason I want to keep it not like anybody can throw something at it.

MR. GIAIMO: Can we have a minute?

MR. KANE: Sure.

(Whereupon, a discussion was held off the record with the builder and owner.)

MR. KANE: The conversation was that if you brought it down all the way to the 4 feet you wouldn't need a variance but you would still need a variance for the square footage of the emblem.

MR. TORPEY: What's the square footage of the emblem? They're asking for 4 feet this way and 4 feet that way.

MR. GIAIMO: I think the square footage of the sign is calculated with the diamond and the arrows.

MR. KANE: That's correct, it's squared out.

MR. SHAH: Because that total is three by five. It isn't going to be like, the diamond, because of the diamond they are both for a variance on that. This is going to be probably only slight difference it's going to be because total height it's going to be around 17 feet.

MR. KANE: Well, we deal with exact numbers so. What was that Sunoco question? And then you hit both sides so that becomes 56.

MR. SHAH: Okay, we will put 17 feet. 17 feet?

MR. KANE: So a 2-foot variance. You're going for 17 feet, 2-foot variance, that's what we're going to vote on and the square footage variance will still be at 60.5 feet.

MR. BEDETTI: That's no higher than the --

MR. KANE: That's no higher than the, what I would like, what I would like the motion to be is a 2-foot variance, either a 2-foot variance or no higher than what the canopy is.

MR. KRIEGER: Or you can put a 2-foot variance and condition it in place of the condition no higher than the canopy.

MR. KANE: No higher than the canopy, which works out.

MR. KRIEGER: You can have both in there if you

want.

MR. KANE: Any further questions from the Board?
I'll accept a motion?

MR. BEDETTI: I'll make a motion that we grant the request for a variance 2 feet in height for a free-standing sign, no higher than the canopy and the variance allowable square footage of the sign 60.5 square feet located at 204 Quassaick Avenue in an NC zone.

MR. TORPEY: I'll second that.

Roll call:

Mr. Scheible	Yes.
Mr. Bedetti	Yes.
Mr. Hamel	Yes.
Mr. Torpey	Yes.
Mr. Kane	Yes.

MR. KANE: Tonight's next public hearing Mira Blythe interpretation that the garage/auto repair permits the towing and storage of vehicles for repair and the parking of tow vehicles located at 7 High Street in an R-4 zone.

Anybody that's here for this particular hearing put their name and address on the pad if they want to speak. If you want to speak on this hearing please make sure that you put your name and address down there.

Okay, Mira, you're on, tell us exactly what you want to do.

MS. BLYTHE: Okay, I have a packet from the original interpretation which was approved for an auto repair shop at 7 High Street. And since you weren't here when I came before Mr. Kane just to refresh everybody's memory on this also the garage was built in 1952. It was dad's, you know, Rumsey Oil then, it passed over, it became an auto repair shop. We cleaned it up so that it was on the books as a legal auto repair shop. And this is the original paperwork from that. And then on top is two affidavits of previous tenants, Al Julian and Richard Gayton who did operate out of there with towing.

The issue tonight is the towing. Once again interpretation to cleanup what's already there that towing is allowed in and out of that area and that the towing really goes part and parcel with an auto repair shop for my tenant that's there. And on top are just the two affidavits. And if you look through the package you can see in the past that they go back for operation of between 16 and 20 years. I think the final page is pictures even showing Al Julian's tow truck by chance in front of the place and it's really just cleaning it up because auto repair many times you do have cars being towed in there for repair.

MR. SCHEIBLE: This is proposed by Richard Gayton 2005? I can't believe that, that's a lot longer than that when he was down there. Just bringing up a simple little, maybe it's an error here.

MS. BLYTHE: He was in there well before 2005, yes.

MR. SCHEIBLE: Yes, well before.

MR. BEDETTI: 1980.

MS. BLYTHE: If you look back in the timeline it's a typing error there, yes.

MR. SCHEIBLE: And when did Julian start there?

MR. KANE: 2002.

MR. TORPEY: He has been there since 1979?

MS. BLYTHE: Yes.

MR. KANE: So basically the property has been preexisting nonconforming?

MS. BLYTHE: Yes.

MR. KANE: And has always been used as a garage?

MS. BLYTHE: As an auto repair garage.

MR. KANE: As an auto repair garage.

MS. BLYTHE: Yes.

MR. KANE: And that's already been deemed.
Questions from the Board?

MR. BEDETTI: During the time when Rumsey Oil service used that garage during that period of time when was it that they had a commercial auto repair service in there, along with the oil business?

MS. BLYTHE: Well, they didn't do auto repair there but they did repair the vehicles there.

MR. BEDETTI: So that's, I kind of -- excuse me, you continue on with your answer.

MS. BLYTHE: They did repair the vehicles there. Back 1952 and in the 60s everything wasn't as specialized as it is today. So if the truck broke down, you towed it in, you fixed it. Or in the old days my father Charlie called Vic Busocci.

Vic would come down there and he'd sit and play with it for a week or so and sometimes they towed them in and sometimes they brought them back themselves. And at that time they would repair the vehicles on site as opposed to sending them out. Of course today everything is so commercialized it's a lot different than it was back then.

MR. BEDETTI: So as I understand your testimony is that the auto repair, the automotive repair work that was done there was done to the Fleet trucks for Rumsey Oil?

MS. BLYTHE: That's right.

MR. BEDETTI: Is that correct at no time did he have a commercial auto repair shop?

MS. BLYTHE: No.

MR. BEDETTI: How about towing, at any time did he ever have a commercial towing business?

MS. BLYTHE: No, this was the location for Rumsey Oil Company.

MR. BEDETTI: So it's my understanding then regarding this testimony at no time was the automotive repair or towing a preexisting nonconforming usage of that building? The preexisting usage of that building was for Rumsey Oil, for servicing, parking the vehicles and maintaining their fleet of vehicles in that garage? But at no time did they ever own --

MS. BLYTHE: Auto repair, no.

MR. BEDETTI: -- an auto repair shop, nor did they ever own a towing service?

MS. BLYTHE: That's right, that's right. But that was all, the fact that it's a legitimate auto repair place now, that was already resolved in 2005 when I was here. So that's not really what we're talking about here, we're talking about just the part that towing.

MR. KANE: The only thing we're talking about here, the only thing we're talking about here is it's already been confirmed that it is a preexisting nonconforming repair shop decided in 2005, that's not being reversed, okay? There's no question about it. The question becomes is a repair shop allowed to have a towing vehicle and are they allowed to park vehicles on their particular lot. That's what they're here for. That's what we got to stick with.

MR. BEDETTI: I don't necessarily agree with that.

MR. KANE: Which part don't you agree? The statute of limitations on arguing a point whether they are or are not a repair shop is long passed.

MR. BEDETTI: I'm trying to, I'm a new, I was not on the Board in 2005.

MR. KANE: I understand.

MR. BEDETTI: So I'm trying to establish whether in 2000, whether the auto repair shop was a nonconforming preexisting issue.

MR. KANE: It's already been determined.

MR. BEDETTI: But I was not here then, I am still trying to determine what transpired.

MR. KANE: Okay, I understand but my own opinion is that it has nothing to do with what this meeting is about.

MR. BEDETTI: Well, I respectfully disagree.

MR. KANE: I know, we've been there before.

MS. BLYTHE: I just want to come back to where I was, I'm looking for towing.

MR. KANE: I know.

MS. BLYTHE: And I'm not looking to have a towing fleet, I'm saying that my ideal tenant is this young guy 35 years old, coming up in the world, he's got an auto repair business there, he wants

to be able to have a tow truck where he can bring vehicles in, repair them and that's part of his business.

MR. KANE: Getting on with what you're here for which is for the interpretation of whether you're allowed a tow truck and to park those cars my concern is that because of the size and nature of the property the amount of tow trucks that may be allowed on that, I believe any repair station has to have a tow truck, I mean it's just part of their business.

MS. BLYTHE: Correct.

MR. KANE: But when you have a small lot then I think we need to take in consideration the neighbors that are in that neighborhood and state that you can only have X amount of tow trucks or tow truck in that thing and his, and the storage of the vehicles on that particular lot become a problem from what I understand.

MS. BLYTHE: I'm in agreement with that.

MR. KANE: From what I understand there has been a history of vehicles being left on the street, parking tickets, that kind of stuff going on. And that's what I want to avoid. I don't want to say the guy can't have a tow truck, that's part of his business, he should have one but there should be a reasonable limit to how many he has and what kind of storage he can do.

MS. BLYTHE: Not a problem.

MR. KANE: I think what I really want to do at this point, and we will bring it back to the Board, is I think at this point I want to open it up to the public for the people that are here that live in that neighborhood so we can hear from them and take it from there. So I need that list.

Who wants to speak first? Ma'am, just state your name and address when you speak and speak loudly enough for that young lady to hear you.

MS. PERREN: Kathleen Perren, 189 Windsor Highway.

I built a brand new house on the end of High Street. For ten years I had to put up with that garage down there. When you couldn't, we had to call the cops. Bill Cunningham was up there all the time. We had no parking signs put up there, they wouldn't move the cars. Every time I come home from work honking the horn, they have to come out and they don't want to move the cars off the street. Have you been up to that street?

MR. KANE: Yes.

MS. PERREN: It's not wide enough to have cars parked on both sides of the street and then you have to come up the middle. Especially in the wintertime when the snow is up there they can't get a big tow truck up there. They only put the small pickup truck up there to clear the snow and they're all over the place. And I don't think that that lot is even big enough to put, to park more than three cars in. They shouldn't be on the street at all. Most of the cars --

MR. KANE: There's not a question whether there can be a business or not, that's already been determined, they're grandfathered in, it's a business, it's going to be a repair garage, we have no say over that tonight.

MS. PERREN: Talking about the cars being parked on the road.

MR. KANE: I understand, I heard you, Miss. I heard you.

MS. PERREN: If you can't get up the road, if you build a house on the end of High Street and now I can't get up that road, I used to park sometimes down on John Street because I couldn't get up the road, then I'd have to walk all the way around, that's not the way I build a house.

MR. KANE: Anything else?

MS. PERREN: No, that's it.

MR. KANE: Thank you. Next?

MR. CARNEY: My name is John Carney. I'm the owner of 8 High Street, directly across from the garage. And I realize these people through the years have had businesses there but I think the biggest problem here they have no concern for the neighbors. In the first place you got mechanics working in there and I think they're subbing really because I think Julian, I'm sure you're familiar with him, is more or less the running, running of this thing and he's got these big flat beds in and out, up and down all the time. They have cars all over the streets. Sometimes I've seen as many, I don't know if you're familiar with the length of that street, but I've seen up to 18 cars on that street. Years ago I went to the Supervisor and he did, he gave us a little bit, he put no parking signs on I think it's the south side of the street there which are ignored all the time. I mean it's really a thing where I realize they're going to have that business there but they could be a little more considerate of people and not only that it's really a fire hazard. If a fire truck had to get up there at any given time they probably couldn't make it to the end of the street. And I think that's the main problem with these people here. I think that's their main gripe. If they have anything else they can say it. That's all I really have to say. Thank you.

MR. KANE: Thank you. Next?

MS. NACLERIO: My name is Nicole Naclerio, I reside at 14 High Street. I just I guess reiterate mostly that there's no consideration. 14 High Street is the last house on the street, there's no through traffic. They turn around in our driveway. The driveway is crumbling at the ends. It's constant, you know, trying to get them to come out to let us through. Same concern as far as them coming through. You know, any emergency vehicles getting to our home. I've had recycles not picked up on a, you know, weekly basis. I've had the oil truck tell me they couldn't get through to deliver oil. I've had my lawn service tell me that they can't get up the street, they have to park down the street and push their mower up the road. So it's just a constant battle. I've been living there since 2001 and I

can't tell you that there's been one day that I haven't, I've been able to just drive to my house. So it's just, you know, like I said mostly a lack of consideration. If they even park, you know, one car in front and our neighbors the Carneys, if they park their car, they don't have a driveway, so if their car's parked and then the garage has a car parked you can't get up the street. And I'll honk and call the police multiple times. Even when Julian was there, Julian's Garage was the one prior they still are there as well with their tow truck. So it seems to me that, you know, they're already doing what they're trying to get a variance for. That there's really no, no difference, they're already doing it and we've complained multiple, multiple times. We've had the cops every day if we were bothered with it every day. And I guess that's really, you know, the emergency vehicles is a big, a big issue.

MR. KANE: Absolutely.

MS. NACLERIO: And we actually had an issue with that once already with a dog, I mean it's different it's not a person we understand that, but we had, you know, it's a life or death situation and we have to sit there and, you know, try to be able to come out and they just mosey on out, we are honking, honking. I've had to carry my groceries up from John Street because they have so many cars there at one time that they can't even maneuver to pull back out. So, you know, I am sitting there 15, 20 minutes. It's just a complete inconvenience.

MR. KANE: Okay.

MS. NACLERIO: Thank you.

MR. KANE: Next?

MR. HADDEN: How are you doing? Leroy Hadden, III at 6 Cedar Avenue. You know, this garage also washes their cars, washes there garage out, the oil, antifreeze and the gas run down the side, run in front of my house into the sewer. It's bad enough High Street you have no parking on both sides. I think the other guy's is 5 High Street,

there's signs on both sides of that street, they park up, all the way up there. And I got signs on my side with a guardrail and a fence that where they are parking my wall, my retaining wall is starting to crack now. And, you know, when I'm looking out my back window all I see is junk. I'm going to be honest with you cars that's been sitting there for years. You know, and up by John Carney's house you got cars on the other side, the right side, all the way down the right side by John Carney's house still sitting there that's been there for years. I've been living in my house for 20 some odd years, it used to be the Radulsky family and we've been in that neighborhood for a long time and it's been a lot of trouble. We got the tow trucks coming up a one-way street, I don't think that's called for. You got the guy who lives in her house with a Corvette coming up driving like a maniac. The young kid, I don't know his name, but I know he drives a vet, he lives in her house. And he drives up a one-way street like a maniac. He drives around the corner spinning tires. It's, you know, I got guys coming up the one way street just to go to Miguel's. They won't go around the whole block just to get to Miguel's garage. Somebody is going to have an accident sooner or later on that street, you know what I'm saying? It's just really, it's inconvenient, it really is. That's all I got to say.

MR. KANE: Thank you. Anybody else?

MR. OSTNER: Richard Ostner, 10 Quassaick Avenue. What I'm hearing here, ladies and gentlemen, is a matter of lack of law enforcement, okay, would that be fair? This gentleman has a recovery business, he's got it cordoned off, we don't even see cars. It's squared away, it's nice, neat and clean. The operation of High Street is not a landlord's responsibility to make or break the way people run the business, however there should be some sort of stipulation from Zoning that stipulates shielding from public view. If it's a recovery, if it's a repair business I really don't see why they should have unregistered cars there for years on end. If you go right now and leave this room, go down there there's four cars on that

street unregistered. That's not code compliance, that's a law enforcement issue however that has now caused a very sloppy operation. And that's not Mrs. Blythe's responsibility, it's the tenant's responsibility, okay, I understand that. However, for the good of the neighborhood I don't think anybody in this room would like to have that next door to them. If it's like Pat's place different story. But the way it is right there now as far as a Zoning variance granted and the way it runs right now against the rules. I would also like to see that building is code compliant, sewage hooked up to the sewer system, which to my knowledge is not. To have shrubbery and foliage trimmed back so it's nice and clean and neat according to code compliance. All of these complaints these people have are very valid but that's not Mrs. Blythe's issue, that's a matter of law enforcement you know. But if you're going to go ahead and grant that stuff please make sure it's code compliant all the way around. All right? Thank you.

MR. KANE: Thank you. Anybody else?

MRS. CARNEY: My name is Eugena Carney, I live at 8 High Street, New Windsor. I object over the tow trucks because they park, my house is like maybe 40 feet, my front door is like 40 feet from the garage. And I'm on home oxygen. When they sit out there and they run that tow truck all the time when they're taking cars off of it and everything the fumes all the time come in my house. I can't breathe as it is. And just the traffic, you can't get up and down the street. And one day I had an ambulance come for me and the ambulance had to sit out there beeping for all the cars to leave. You have to run inside and tell the people to go move there's an ambulance out there. That's all I got to say.

MR. KANE: Okay, thank you. Anybody else? Last call for anybody else? We will close the public portion of the meeting and bring it back to the Board.

Nicole, how many mailings do we have?

MRS. PELESHUCK: On the 12th day of July 2011 we

mailed out 85 addressed envelopes and did receive one written response back.

MR. KANE: I will read it into the record, To Whom It May Concern, I have received this notice regarding the business located at 7 High Street. As residential homeowners at 8 Cedar Avenue we are against more business being generated on this street. This area of the street is very narrow for a two-way street. Children live at this residence and they can't play outside due to the rowdy customer base. We are not in agreeance with the repair garage reopening for the same reason plus other unwelcomed intrusions. We were unable to attend the meeting due to work schedule, we are available by phone. Gladys Rosales.

Okay, and again the issue is a tow truck issue, the business is what it is. It is there and it's been grandfathered in so the question becomes the tow truck issue.

I take it back to the Board for further questions, comments.

MS. BLYTHE: I just want to make one other comment.

MR. KANE: Absolutely.

MS. BLYTHE: I should put in the record Al Julian does not operate a business out of there. He does work back and forth there. He is not my tenant. He does not pay the rent there. What he does there he tows vehicles in. He's not my tenant. My tenant is Miguel Foncia.

MR. SCHEIBLE: In the picture, these colored pictures there's numerous vehicles parked alongside the, I've driven past this dozens and dozens of time myself in this little area right here.

MS. BLYTHE: That's the parking garage, that's the parking area. And it's blacktopped. It's a parking area next to the garage, next to the garage.

MR. SCHEIBLE: At this present time there's still a lot of cars hanging around there. How many cars

can be parked inside the building?

MS. BLYTHE: Well, they have two lifts.

MR. SCHEIBLE: There's two lifts.

MS. BLYTHE: And they do work in there. And also I can show you this is a layout coming down Walsh Road and here's my garage, here's the lot you see with the cars in it, okay. Here's one house, they have a small garage, there's a car that's been parked out in front of there for years with no plates on it or anything. That has nothing to do with my garage. This is all no parking here. There's a very small parking area here and there's no sign here. There's signs here that say no parking. The last couple of times I've been down there especially at night there's no cars parked along here. This is where the firehouse came in and put up all the grass. There's three vehicles here that are legally parked and there's no parking here of course in front of the Collins house. There's no parking here also.

MR. SCHEIBLE: The only reason I brought that up was it seems the problem is the number of cars. We've had a lot of very anti, you know, I'll call it questions here this evening and I have to take this all in consideration and I'm trying to figure a way how this area could be cleaned up, make it look presentable.

MS. BLYTHE: But it's always been like that, okay? It's always been like that forever and ever. It was no different when my father 2 o'clock in the morning was going down there, starting up an oil truck and taking somebody oil 2 o'clock in the morning and he did it many evenings. So whether it's at least not repairing cars 2 o'clock in the morning you can be sure Charlie Rumsey if you called him 2 o'clock in the morning and you said you were out of oil he would be down there and he got in the truck and he brought you oil.

MR. SCHEIBLE: I'm just bringing up at the present time.

MS. BLYTHE: I'm saying usage of that area was

always like that.

MR. SCHEIBLE: Just trying to figure out a way how we can make this more organized than from all of the comments that I have heard this evening.

MS. BLYTHE: Take care of the parking issue then. I mean on the street parking. Put no parking on both sides of the street if that's what you want.

MR. TORPEY: It's a hard call. It's like she doesn't own the street. It's like a neighbor that lived there that had ten, fifteen cars out in the road it doesn't make it a, they got to, like Ostner was saying they have to maintain it, get the cars off the road. If the tenant doesn't want to move it, you know, you get the cleanest, nicest tenant in there he can be really good for six months and then get over busy and have cars lined up the road. The Town should be down there. Those cars have to get off the road. You can't run the business out in the middle of the road. The tow truck, tow trucks is a tool. It's part of the business. You get a repair shop number, it's part of the business. You don't even have to have a repair shop to have a tow truck, but you need a registered repair shop to run the tow truck so it's like a catch 22. It's a tool. It's considered a tool. I mean limiting one tow truck, one flat bed that's it. That's probably real reasonable but, you know, you can't have more than two tow trucks there. You can't have so many cars that you can't fit off the property. I might as well start taking over Union Avenue but, you know, you just can't. It's a hard call. Tow trucks shouldn't even be part of zoning. It's actually a tool. That's like saying I can't have a big toolbox you know, how am I going to --

MR. KANE: I don't disagree with you.

MR. TORPEY: How can you fix the cars without that tool, how am I going to fix that car? Do I have to bring the tools to the people's house?

MR. KANE: That was my original thought too, it's a tool, and it's something that goes with that business. My concern is how do we find a way to

help the residents in that area because of the way the tenants are treating the neighborhood. I don't know if we can or we can't. I mean we can mention it to the police but it's been mentioned to the police I don't know how many times and that's their job to clean the road off. But I don't know if there's anything that we can for lack of a better word legislate here as far as that.

MR. TORPEY: You can zone that place to five cars. The guy is going to put ten in the road and five on the property.

MR. KANE: I know. It's just you know, it's a really tough call.

MR. SCHEIBLE: That was the reason for my question how many cars are able to fit within the garage, that was my question, and I didn't get an answer yet because what was going on here.

MS. BLYTHE: Probably four cars.

MR. SCHEIBLE: Four cars.

MS. BLYTHE: And certainly, you know, if he's working on something and he's got it up on the lift, two vehicles up on lift, the end of the evening they don't take them down off the lift and put them in the street, they leave them in the garage. They got something else sitting in the front, they bring it in the garage.

MR. TORPEY: Those cars shouldn't be on the road.

MR. KRIEGER: Four cars in addition to the lift or four cars including two?

MS. BLYTHE: There's two lifts, okay, so if you had a car up on each lift and I don't know, Pat, do you leave it up or down?

MR. TORPEY: You can put cars under them.

MS. BLYTHE: At the end of the evening.

MR. TORPEY: Like a stacking parking garage.

MR. KRIEGER: That would be four in the building.

MS. BLYTHE: Correct.

MR. KRIEGER: What about the property that the building is on?

MR. TORPEY: What's the size of that lot?

MR. BLYTHE: You can fit three cars deep on it, probably about four cars wide, maybe five cars wide, three deep.

MS. BLYTHE: You know I can't, I can't say what they experience every day, I don't live there okay but like last night, last couple of nights I've been going down there I have talked to Miguel about it he says there's never, on the side that the garage is on, okay, which is the hill from behind the firehouse which the firehouse came in and they planted wild flowers which to me look like weeds so it's not going to be landscaped the way Richard is talking about because they did plant something there. There's no cars there. Miguel told me he doesn't park cars there overnight. When you go to the other side of the street there's, and also just one more thing on that side, this is the same side that's the garage, there are signs there no parking, that's no parking any time. When you go to the opposite side of the street which is what I showed you on there there's a very small stretch where you can park cars. Whether it be Miguel or somebody else. So if Miguel doesn't park cars there somebody else is. Because it's allowable public parking for three parking, for three cars there. So we can say Miguel you can't park cars in a public area that doesn't mean nobody is going to park there. It means somebody else will park there because anybody can. Then of course there's no parking down at the right where you turn into the street. You know, you can't park on either side there. Is it tight, yes, it's tight, it's always been tight. Even when there was oil trucks it was tight.

MR. SCHEIBLE: There was another thing that was brought up that was very disturbing when I heard it about the, is there a drain inside that

building for washing?

MS. BLYTHE: As far as I know it is.

MR. SCHEIBLE: Well, I just heard one of the comments tonight that as they wash it out the water goes out in the gutter and goes down into that, that sounds a little scary to me. That's, to me that was probably one of the greatest issues that were brought up here today.

MR. KANE: It is a definite issue, it's nothing that we can address. If it was me and I was in that neighborhood the way to go about that is not calling the police or anybody, it's a written complaint to the building department and the fire department who will send the inspectors but it has to be in writing. So that's what I would do, I would go down and put it in writing at the building department to have them send the fire inspectors out there because there's no reason the oil or antifreeze or anything like that should be traveling down.

MR. HAMEL: I'd make a call to the DEA.

MR. HADDEN: I've done that. The DEC or DEP has been there at that place.

MR. TORPEY: She's not here for that reason.

MS. BLYTHE: But if they've been there they must have, I mean they don't just come and examine it and then not come back so.

MR. KANE: If they've been there there's got to be some kind of drainage or they would have been cited.

MS. BLYTHE: That's right. I'm sure I would have gotten a copy of that as owner of the building. I never received anything like that.

MR. BEDETTI: This towing request here I'm not quite sure about is the towing request for a different company than the ones that are doing the auto repair? Or is it the same auto repair is looking to get a tow truck to tow?

MS. BLYTHE: Or if my tenant changes, if my tenant changes I want to be able to advertise in the paper or with a broker that it's an auto repair shop. And the first thing an auto repair owner is going to ask me is can I put my tow truck there. And so I don't want to be down the road, my tenant right has no intention of moving. So but it's a matter of cleaning it up, cleaning up because tenants don't stay forever unless they buy the building and that just doesn't look like it's going to happen.

MR. BEDETTI: So what you're suggesting that most likely would be a separate towing company from whoever is doing the repair?

MS. BLYTHE: No.

MR. BEDETTI: You're saying the tenant has no intentions of leaving?

MS. BLYTHE: That's right, but who knows you know you got, you can't wait until somebody packs up their toolbox and says I'm moving out of here, put an ad in the paper or whatever and then the first question they're going to ask can I do towing also.

MR. BEDETTI: So it looks like then you don't have a company that's ready to move in?

MS. BLYTHE: That's correct.

MR. BEDETTI: But you're giving yourself the option to advertise to bring in --

MS. BLYTHE: If it happens.

MR. BEDETTI: -- a towing company.

MS. BLYTHE: Not a towing company, no, I'm not looking to make this a towing shop. This is an auto repair shop where you need a tow truck. Many times or many of those people have a tow truck, it goes part and parcel with having the toolbox of tools to repair the cars. You have a tow truck in most cases. And so if my tenant moves then I'd like to have the option so I can offer it to

somebody and my paperwork is all cleaned up. It's my understanding that New Windsor you have to come here to do that. I can either wait and do it in a rush or whatever. You know, things never happen when you want them to happen or you fix the problem when you know you have it. That's what I'm doing here. I'm just cleaning up paperwork. The same which we did in 2005.

MR. BEDETTI: My own personal concern at this point in time is in 2005 this Board granted the right to have an auto repair shop as an extension to what was there before, someone doing a repair on their own fleet. Again I personally think that that decision might not have been in the best interests of the neighbors even though the declaration, the formal decision says that this, this selection, this choice of extending this to auto repair will not harm the neighborhood. But we have a bunch of neighbors here who claim otherwise. And I'm concerned that if we extend this even beyond that to a towing company who's in a similar kind of business and maybe the same plus a little extension that we're only going to exacerbate the problem, we're not going to be making it any better, we are perhaps going to make it worse.

MS. BLYTHE: But I'm not renting to a towing company. I keep coming back to that.

MR. BEDETTI: If they're asking for a variance or an interpretation on interpretation of the garage repair permits towing and storage of vehicles.

MS. BLYTHE: Right.

MR. BEDETTI: I'm concerned that that's just going to make the situation even worse. You're going to have repair in there and you're going to have towing people who are going to come in tow cars, use the lot as an impound lot perhaps. Speculative, you're really speculating that you're going to get somebody in there with that kind of a request. So I'm very concerned with us broadening an already bad situation.

MS. BLYTHE: Okay.

MR. TORPEY: She could rent it out to a repo company. It would be like a one truck operation, one guy. You're only re-poing cars, bringing them in, storing them.

MR. BEDETTI: Is that allowed in that zone?

MR. TORPEY: It still goes under the repair shop. I could move in there tomorrow with my repair shop, my tow trucks follow me. You can't stop that.

MR. BEDETTI: If they were going to do that she might have to come before the Board if we didn't grant that request now, if it's not part of the code.

MR. TORPEY: That's like having an oil business without an oil truck.

MR. BEDETTI: If you're going back to the decision I can repair my car in my garage, but I can't go out there and bring other cars in from the neighborhood and say well, this is an auto repair shop because I repair my car in my garage.

MS. BLYTHE: Right, but if your car breaks down three blocks away you can't get your car to your place.

MR. BEDETTI: I understand. So I call an independent tower, it has happened to me.

MS. BLYTHE: That's what goes along with this. You have to have some way to get the cars there that need to be repaired.

MR. BEDETTI: Again, like I said I question whether that belongs in a residential zone.

MS. BLYTHE: Okay.

MR. KANE: Any further questions from the Board?

MR. TORPEY: This is a tough one. I don't understand what we would be voting on, a tow truck?

MR. KANE: Yes.

MR. KRIEGER: What you're voting on is whether or not the maintenance of the tow truck or specified number of tow trucks is ancillary to the permitted use, is necessary ancillary to the permitted use. It's already been decided to have the permitted use to repair cars. And don't forget by law you can, you can place conditions on that, no more than a certain car, you know, more than a certain number.

MR. TORPEY: Then again who is going to enforce that, that would be the Town?

MR. KRIEGER: Well, I can't, there's no way that you --

MR. TORPEY: The Zoning Board is not going to enforce that if we granted two tow trucks.

MR. KRIEGER: All you can do, all this Board can do is give the tools to the enforcing, if necessary, but it's not an enforcement body. So the problem with what do you do when the law's not enforced, well that's not the first, this is not the first application that's come up frankly and it's not within the jurisdiction of this Board.

MR. SCHEIBLE: Mr. Krieger, since I wasn't here either in that previous approval that was in 2005 where they were allowed to operate a mechanic shop we'll call it, repair mechanic shop.

MR. KRIEGER: Repair facility.

MR. SCHEIBLE: Did they also get the approval for what's, what's sticking out in my sore thumb is here the storage of vehicles, that's the problem that I have with this whole situation, the storage of vehicles. That's why I was asking before how many vehicles would she be able to park, you know. If there's a way of limiting, limiting the number of in the storage.

MR. KRIEGER: So let me give you one question, two answers. First of all, I don't remember whether anything specifically was said. My recollection

is that it was not about the storage of, specifically storage of vehicles. Number two if you're inclined to grant an interpretation as they've requested you can place conditions on that. You can limit that storage of vehicles.

MR. KANE: Absolutely no unregistered vehicles no longer than 30 days.

MR. KRIEGER: For an interpretation that says repairs includes storage and you could say fine, okay, storage means no more than X number of vehicles, they can't be stored off the property, you know, other things that were suggested. Because the preexisting nonconforming use that was approved was not for a towing or impound yard. They would be storage only ancillary to the repair of motor vehicles. And they typically, cars are there a lot less, should not be there as long. Repairs, they might be in an impound yard they might be there indefinitely. But they weren't granted interpretation of allowing an impound yard, that's an entirely different matter, just to repair.

MR. SCHEIBLE: Just storage or vehicles being repaired?

MR. KRIEGER: Yes.

MR. SCHEIBLE: There cannot be any unlicensed.

MR. KANE: No unregistered vehicles, vehicles not allowed on the property longer than 30 days, 21 days, whatever.

MR. SCHEIBLE: Can you place a number on this, number of vehicles?

MR. KRIEGER: Yes, the property won't hold more than, that's why I asked.

MR. TORPEY: Rule of thumb is one, I think it's four cars per bay, right? How many bays? Say if it's a three bay shop that's 12 cars, that's it. That's the rule.

MR. SCHEIBLE: That sounds like a lot.

MR. TORPEY: I've been through it five times.
That's how they calculate your parking spaces.

MR. SCHEIBLE: What is the regulation for that?

MR. TORPEY: It's in the code book. It's in the
Town thing.

MR. SCHEIBLE: They allow five vehicles you said?

MR. TORPEY: Four parking spots per bay. So if
you ain't got enough parking spots for your bay
then you get variances or move on and change
things around. But if she has a three bay garage
and she can fit 12 cars on that property she's
allowed to have 12. You can't touch that number.
If she's asking for 30, it's a little crazy, she's
only allowed 12 then. If that garage has four
bays then she's up again another four cars.
That's her limit, she can't go passed that.

MR. KANE: How many bays do you have?

MS. BLYTHE: There's two bays -- I'm sorry,
there's three bays there. Three bays.

MR. SCHEIBLE: When you say bay, it's only one
garage door? I consider that one bay.

MR. TORPEY: If you can squeeze three cars into
that garage and make them each individual bays
that's how it's -- she can go around and put
garage doors all the around the building. If she
put five garages doors in then she's allowed 20
cars?

MR. SCHEIBLE: I'm just asking.

MR. TORPEY: A bay is considered a car spot, not a
garage door.

MR. BEDETTI: Actually the code considers a bay to
be 400 square feet to work on the vehicle.

MR. TORPEY: Let her go back to the square foot to
see how many bays she can squeeze out. There's 12
cars right there on her property. Even if she can
only fit six cars she's still entitled to have,

you know, it's how they calculate it.

MS. BLYTHE: Plus now the parking area next to the garage that's deep.

MR. TORPEY: It's really a matter of getting a nice tenant to get somebody to take care of the place, keep it neat and clean. That's really what it comes down to but that doesn't always happen. The tow trucks falls under the repair shop. Wrecking a car, bringing a wreck in there, that's not allowed. Repairing a body shop car, that's not allowed. If she has a repair shop there and that guy has one tow truck, he can tow his cars in and out. He can't be bringing in cars and wrecks, he can't be bringing demolished cars. He can only be towing cars that have to be repaired and then they leave. That was another clause. The tow truck is considered a tool to your repair shop or your commercial license or your building or however you want to word it or say it. They can limit you, we can limit the tow trucks you know but. The variance for a tow truck I would be fighting, I don't know why she's here for that. That's part of the repair shop. What we can say is how many cars or this and that we can do, but we can't tell her she can't have a tow truck there.

MS. BLYTHE: I was told you could so that's why I'm here or else I wouldn't be here.

MR. TORPEY: I've been through it, I've been in front of this Board 20 years now.

MR. SCHEIBLE: You know just is it illegal to tow in a nonregistered vehicle and park it there? That's my question.

MR. TORPEY: If you keep it on the property that's fine because people come at night and steal the plates.

MR. KANE: We cannot allow that.

MR. TORPEY: We can number it.

MR. KANE: You can do, for example, say that the

operation since it's a small place they're allowed either one tow truck or a flat bed their choice, no unregistered vehicles, no vehicles allowed to remain more than, you know, just throwing numbers out more than 30 days or 21 days.

MR. TORPEY: Unregistered vehicles should be inside.

MR. KANE: No offproperty parking, offstreet parking, anything along those lines, you can add into it as a motion.

MR. SCHEIBLE: My goal is here I'm asking these questions which, you know --

THE COURT: We are just trying to find an answer.

MR. SCHEIBLE: -- I'm trying to find an answer, my goal is to clean the area up. From what I heard from these people out here this evening there's a problem there. The landlord should be, have responsibility to make this presentable to the neighborhood is what I'm getting at.

MS. BLYTHE: It's a repair shop. I live next to some real messy neighbors too and they don't have an auto repair shop and I got people I live next to that I consider a disgrace and they also repair their own cars in the driveway.

MR. KANE: I'll accept a motion?

MR. HAMEL: I'll make a motion that we grant Mira Blythe the variance as requested and I'm going to look for the Board to see if they want to add anything.

MR. TORPEY: Before we make any motion, Mike, what are we motioning on?

MR. KANE: We're motioning on an interpretation whether they're allowed to have a tow truck which is basically what it is. And the amount of parking. Whatever amendments you want to add to that regarding no unregistered vehicles or no longer than 21 days or only one tow truck or one flat bed or two tow trucks, whatever way you want

to word it that's what we're looking at.

MR. TORPEY: That could be a pretty big motion.

MR. KANE: Yes.

MR. TORPEY: Don't you think we should decide that?

MR. KANE: Well, that's what we're doing before we are voting on it. We're doing it right now. The motion is and it always has to be stated in the affirmative, so the motion is to approve the interpretation as that the shop is allowed to have one tow truck, two tow trucks, got to decide.

MR. TORPEY: What's the rule?

MR. KANE: There is no rule.

MR. TORPEY: There is a rule.

MR. KANE: What's the rule? Is there a rule that a garage is allowed X amount of tow trucks?

MR. TORPEY: No, no, I'm not talking about that.

MR. KANE: What we're trying to do is limit what's going on that road or don't say it at all and just say allowed a tow truck as, you know, without a number on it and go with what's on the thing. It's up to you guys. It's how you want to put the motion together.

MR. TORPEY: Asking for storage of cars is not, I don't think that's worded right. I don't think that should even be --

MS. BLYTHE: I'm not asking for storage of cars, I already got that, I'm just looking for a tow truck.

MR. TORPEY: Limit the cars on the property but the storage of cars she's really not looking for a storage yard.

MS. BLYTHE: I have a storage yard.

MR. SCHEIBLE: In 2005 were you given that permit to have a storage yard?

MS. BLYTHE: Yes.

MR. SCHEIBLE: Along with the repair shop?

MS. BLYTHE: Yes.

MR. SCHEIBLE: That's my question. But there is no stipulation how many vehicles could be stored at any one time?

MR. TORPEY: If you can fit five cars you can't put six.

MS. BLYTHE: It's not a double-decker, it's just you know.

MR. BEDETTI: From what I understand you were given the right to operate an auto repair shop at that location?

MS. BLYTHE: That's right.

MR. BEDETTI: I don't recall seeing in the minutes any reference to the number of vehicles that could be stored, how many of them could be registered, how many can't be registered, they were not in that original request.

MR. TORPEY: We can't vote on how many cars he can keep in the road. He shouldn't be keeping any cars on the road. The road should not be part of this at all.

MS. BLYTHE: That's right. But nor is the storage really. I mean I do not want to make this more complicated than what I came in the door for.

MR. KANE: Well actually it's not more complicated, you're asking for an interpretation of 300-84A-1, interpretation that the garage auto repair at 7 High Street permits towing and storage of vehicles for repair and the parking of tow vehicles. That's what the interpretation is for.

MR. TORPEY: It's like having a repair shop,

exactly. That falls in the repair shop category. That goes by calculation of bays.

MR. SCHEIBLE: How many square foot is the building?

MR. KANE: Written here applicant seeks interpretation that preexisting use includes towing of vehicles to be repaired and parking of tow vehicles on site as permitted within the preexisting use.

MR. TORPEY: The car's paid for or not paid for it's fixed and it's sitting there two weeks when the people come up with the money then you have your two weeks of a car sitting in storage. It just happens. So somebody has to calculate.

MS. BLYTHE: You see that's the biggest problem, you fix something, and Pat can tell you, then they don't want to pay you. What are you going to do, give them their car back --

MR. TORPEY: Or they jump the fence and they take the plates. And you're sitting there with a car. Before you know it you got 60 of them. Then you have to go through a whole other ballgame. It doesn't go by the square footage of the building because it only has an office, bathroom, and whatever, it's going to be by the square footage of how many bays and that's it. It's really three bays, four cars per bay, and that's parking spots.

MS. BLYTHE: Mr. Kane, can you read the motion according to the second part as you read it?

MR. KANE: Applicant seeks an interpretation that the preexisting use includes towing of vehicles to be repaired and parking of tow vehicles on site is permitted within the preexisting use.

MR. KRIEGER: So we have a motion that's been made.

MR. TORPEY: I second that.

MR. KANE: It's been seconded. So we follow the rules of order. So that the discussion can

continue a bit. I mean we all got a feeling about it, I think we just need to get a motion out there and vote on it.

MR. BEDETTI: We just made a motion and seconded.

MR. KANE: We seconded. No more discussion?

MR. BEDETTI: No.

MR. KANE: You're fine?

MR. KRIEGER: When the motion was made --

MR. KANE: He asked for the Board's interpretation if they wanted to add anything to it.

MR. KRIEGER: If you want to place conditions on the interpretation, so does anybody want to add conditions?

MR. TORPEY: Let's go with a flat bed, is a flat bed, I don't know if you consider it a tow truck, go with no more than two. A little flat bed and a tow truck is a common tool. You can't tow cars today, you need to tow with a flat bed. Everything is all-wheel drive. And then go with the stipulation of the bays, how many cars can go by the bays and be done.

MR. KRIEGER: You are saying three bays, you're saying four cars a bay.

MR. KANE: 12 cars.

MR. TORPEY: Well, they go by parking spots. If she has a site plan she would have to make them into parking spots. Four cars per bay, no more than two tow trucks. It's got to be a real neat freak.

MR. KANE: So the motion is no more than two tow trucks and no more than four cars per bay.

MR. TORPEY: I can't see us overriding that.

MR. KANE: Anything else? Any other comments?

THE AUDIENCE: They are going to put that big truck --

MR. KANE: Ma'am, you can't, the public portion is closed, simple as that. We understand your concerns. If you want me to ask you to leave I can do that too. I mean this is a tough situation. They have a right, it is a tool. We're trying to find a right way. There's not going to be an easy answer for this at all. And if you think that you can legislate against a business having a tool right in there this would probably be an Article 78 the Town of New Windsor would go to court and lose. Rightly so, what we're trying to do is find a way to make a livable condition, that's why I think that having conditions on the motion is one answer for us.

The other answer is enforcement from the local government. And that's not our job and we can't force anybody to do anything that you guys obviously have already done. I think the one thing you need to do to is if you have complaints along that is that you put them in writing and bring them to the building department. Especially if there's situations and they'll get the fire inspector down there to do that. If they can't get an ambulance up that road they'll be citing them all over the place. And those are the ways you can do it. It's a tough call, it really is. So you know we do the best we can up here and we, believe me, we all live in this Town and as you can see we are all a little bit different but we're all concerned about the neighbors. I know I wouldn't want it in my neighborhood, but I also understand what our limitations are with dealing with a business that has a right to a certain thing.

So I think that's why putting some kind stipulations on is one way we can help control the situation a little bit. But the ultimate answer to it is going to be from enforcement from either the police, fire inspector or whatever and we're going to have to be on top of them. We can't enforce that.

MR. TORPEY: It can be a furniture company in there and they got 40 employees in there. Every day there's 40 cars packed on that road.

MR. KANE: It's a tough one.

MR. SCHEIBLE: If it wasn't in an R-4 zone.

MR. TORPEY: That's all businesses down the other end too.

MR. SCHEIBLE: That's the chain right here being in R-4 zone. I am agreeing with what my chairman said, we are compelled to make a vote.

MS. BLYTHE: The other problem it's a dead end street, that's the other problem.

MR. TORPEY: Years ago everybody got along.

MR. BEDETTI: It is a dead end street.

MS. BLYTHE: Open up the street.

MR. BEDETTI: So we can take into consideration what we're asking to be brought in there considering that it was a dead end street that we already have a problem there. It's not being monitored and enforced and the Board didn't help the situation in 2005 by allowing the situation to be brought into that location.

MR. KANE: It wasn't brought in, it was approved that it was in existence and being used for it. It was approved.

MR. BEDETTI: Not commercial auto repair.

MR. KANE: It was approved.

MR. BEDETTI: I understand, they made a mistake, I personally think the Board made a mistake then.

MR. TORPEY: Not back in 1953.

MR. BEDETTI: This is in 2005.

MR. TORPEY: Exactly.

MR. KANE: You know, okay, enough, we can stand here debating individual arguments for the next hour, not going to happen. Okay, we've got other

people on the schedule. I need a motion and if there are any stipulations on it let's get it thereon and let's get a vote on it. Obviously there's, so the motion is no more than two tow trucks.

MR. TORPEY: And you got to go four cars per bay.

MR. KANE: No more than four cars per bay. So if they have three bays no more than 12 cars. Do you want to add there should be no unregistered vehicles on the lot?

MR. HAMEL: No unregistered over 21 days.

MR. KANE: No unregistered vehicles on the location? And no vehicles. Well, the tough part is no cars longer than 30 days but if nobody comes to pay that becomes a situation. You can understand that one. But no, there's absolutely no reason why that particular shop as a repair shop should have unregistered vehicles sitting there for X number of years. That I totally understand too.

MR. TORPEY: No junk cars.

MR. KANE: No junk cars.

MR. SCHEIBLE: Even though it's a repair shop the area should be groomed and kept clean.

MR. KANE: We can't enforce that. I agree with you but it's not something we can enforce.

MR. TORPEY: Planning Board.

MR. KANE: Exactly.

MR. KRIEGER: Richard, you can put that in as a condition.

MR. TORPEY: Everybody's place should be kept nice. Every place should be kept nice.

MR. KRIEGER: That's true.

MRS. PELESHUCK: Unregistered and no junk cars.

MR. KANE: Would you read it back? So this is the motion.

MRS. PELESHUCK: No more than two tow trucks, no more than four cars per bay which they have three bays, no junk cars and no unregistered vehicles.

MR. TORPEY: I second that.

MR. KRIEGER: And the area to be kept clean and presentable.

MR. KANE: That's your tool as the owner for your tenants to say hey, this is what the Board said that you got to keep this place clean. I mean that part has got to go on you. So we have a second and that's the motion. I call for a vote.

Roll call:

Mr. Scheible	Yes.
Mr. Bedetti	No.
Mr. Hamel	Yes.
Mr. Torpey	Yes.
Mr. Kane	Yes.

MR. KANE: The next public hearing KC Engineering and Land Surveying P.C. for proposed one family house will not meet the minimum area lot width, required side yard setback and required total side yard located on Bull Road in an R-1 zone.

Gentleman, same as the Preliminary, speak loud.

MR. ZIMMERMAN: My name is Gerald Zimmerman representing KC Engineering. And Jerry Posturello is here with me tonight as well. And the applicant Highland Operating Mr. Biagini is also present. And as the notice indicated we have a preexisting nonconforming lot which is located on Bull Road near the intersection of Shore Road in the R-1 residential zoning district. That zoning district requires 80,000 square feet and this lot, the lot area and some of the other setback requirements did not meet the current zoning. The lot is preexisting. It has been in existence for approximately 45 years. It was created in 1970, the lot. It's vacant land.

With regard to the application we believe that this lot although being undersized is in conformity with the existing neighborhood. We brought in information which provided information as to the existing lot sizes in the area and how this lot conforms to that. Additionally we feel that by granting the variance to allow the construction for one additional house would not cause a detriment to the neighborhood or to emergency services. And that you know basically granting this variance we think would be in character with the existing neighborhood as far as lot sizes and what the proposed dwelling on the lot would be as well.

MR. KANE: You are proposing a one family house in a neighborhood of one family houses?

MR. ZIMMERMAN: That's correct.

MR. KANE: Cutting down any trees, substantial vegetation in the building of this home?

MR. ZIMMERMAN: The lot as it exists now we would not be cutting down any trees. It's a pretty well vacant lot at the present time.

MR. KANE: Create any water hazards or runoffs?

MR. ZIMMERMAN: Again, there is a culvert under the proposed driveway and there's an existing drainage ditch in front of the property. So we don't believe that the building of the one house would create a detriment or problem to the area.

MR. KANE: And any easements running through the area of where the proposed home is going to be?

MR. ZIMMERMAN: No, there's not.

MR. KANE: We already stated that the lot is similar to the lot directly to the left of it and the two lots to the right of it if I'm looking from the road?

MR. ZIMMERMAN: That's correct, sir.

MR. KANE: Open it up to the Board for further questions. Nothing at the moment I'll open it up to the public then and see if there's anybody here for this particular hearing?

MS. DEFREECE: My name is Margaret Defreece, I live to the left side of the proposed. We have, it's a flood area where we are. There's a problem with water. My neighbor on the one house up from me he came in, filled in the property, ruined my neighbor's well and septic system. Now they came in they put in a 10-inch culvert which has not handled the water that gets in that property there. They also came in, it was dirt and built it up. This means in the summertime I can't go in my backyard now until at least August. There's definitely, I'm there 40 years, we are constantly having water problems.

MR. TORPEY: How many years?

MS. DEFREECE: 40. My son has pictures where the water has flowed across the road. My son lives directly across the street. His yard is wet. He has 5 acres there, it's considered wetlands. The whole area is wetlands there.

MR. KANE: Okay.

MS. DEFREECE: He has five acres that he can't build on his property because of wetland.

MR. KANE: This is not designated as wetlands though.

MS. DEFREECE: It certainly is.

MR. KANE: Not that I see.

MS. DEFREECE: That's what we've been told.

MR. KANE: This is not his property which is across the street. This is a different property. The back of his five acres could be wetlands. This doesn't show a designation.

MS. DEFREECE: Does he have to be so many feet away from my well and my septic?

MR. TORPEY: That's a law.

MR. KANE: Yes, he has to be.

MS. DEFREECE: On the side lot?

MR. KANE: He still has to maintain his distances from well and septic.

MS. DEFREECE: That's what I'm saying is it going to be enough room for that?

MR. KANE: He has to. That goes in front of the Planning Board.

MR. KRIEGER: It doesn't go in front of the Planning Board, it's a one family residential, the health department, county health department is going to require that he locate the well and septic so many feet, I forgot what the requirement is, away from the existing well and septic and if he doesn't have enough property to do that that's his problem.

MR. TORPEY: But they actually come out and inspect that to make sure.

MS. DEFREECE: As far as all filling in the dirt

it's a level up higher than what it is now. All the runoff is going to run on my yard. He put in a 10-inch culvert pipe that's not going to handle the water. My kids swim in that road.

MR. KANE: Okay.

MS. DEFREECE: On the road. Okay, that's all I want to say.

MR. KANE: Okay, thank you.

MR. SCHEIBLE: There's a lot of tests he has to go through.

MS. DEFREECE: I doubt whether he will be able to even perk it.

MR. SCHEIBLE: That's what I'm saying.

MR. KANE: Anybody else in the public for this particular hearing? No? Okay. I'll bring it back to Nicole and ask her how many mailings we had?

MRS. PELESHUCK: On the 12th day of July 2011 I mailed out 24 addressed envelopes and received two written responses back.

MR. KANE: I will read the written responses. This one is from Phillip Defreece, I believe her son, you have to bear with me it's probably going to be a little bit hard to read. I Phillip Defreece residing at 12 Shore Road don't want them to build in that undersized lot. This area is a flood zone and his filling in that lot has already raised problems. The neighbor on Bull Road that did not and the rest had problems with seepage water problems is basically what he is getting at with that one.

For the Zoning Board meeting July 25th, 2011 thank you for the opportunity to submit my statement via e-mail, I was concerned it would not be heard otherwise. I own two properties abutting the lot being considered for variance at the Planning Board meeting on -- Zoning Board meeting on July 25th. The lot under consideration is 53.21 on Bull Road. I own 55.2 on which my home of 25 years sits and I own the lot directly behind

it lot 53.23. I am very apprehensive about granting a variance on the lot for several reasons. Over the last six years we have had annual flooding on my property. There is a drainage right-of-way. The flooding thus far has come close, eight or 15 feet, but not into my house yet but flooding has been high enough that twice this year alone that Bull Road in front of my home had to be closed because water was flooding over it. This flooding is despite the Town raising the culvert pipe a few years ago. There's a natural pond on my lot and now three months out of the year it dries back to swamp ever since the soccer fields on Shore Road were built. Until six years ago flooding was once every seven to ten years and the pond rarely dried back. The lot owner has filled the wet lot with significant number of truck loads of soil brought in from his other properties. The land is dryer and no longer needs, seems to be acting as a sponge to the runoff. Further the land is now higher and will cause any runoff to divert from that lot onto my lot. I have deep concerns that the raising of the land, the changing of the soil content and the layout of the property is going to cause flooding to reach my home next time. I'm concerned enough that I've purchased national flood insurance. I'm also concerned that any choke to the stream feeding the pond will turn it into a swamp year round causing significant financial damage. Another concern is septic drainage. My well is in the rear of my home. Considering the annual flooding any septic and rear of any house built on the property has potential to contaminate my well. Further concerns are for quality of life and property value. If the home is built on the lot, closer to the property line than currently zoned or built in such a manner that stepping onto the rear deck of my home looks into the other home directly, it decreases my perceived home value. Because the house proximity is closer than at current norm and it may be too noisy to decreasing the quality of life. I am deeply concerned about children and animals getting into the pond that I am stuck with. Prior to filling the land the pond could not be seen from the street. If a home is built obviously there's concern about children and animals from the house getting into it. Prior to

my purchasing my home in 1986 a child drowned in the runoff from this pond and was kept alive on a ventilator for many years. I lived across the street from my home. I mention this to the owner of lot, stated I would like to see such a, see such a fence if he ever builds and he nodded but verbal is not in writing. If a variance is granted I hope that the Zoning Board considers my apprehensions especially the serious concerns for flooding potential and well contamination and water supply choke prevention. I hope the Board would require any construction not to be situated to decrease my home value and/or quality of life. I request that the Board require installation by the builder of a fence that I can agree with designed to keep small children and animals off both of my lots. There are currently two legal building lots and three homes for sale on Bull Road and numerous lots and new homes around the corner on Tallman Road. Thank you for your kind consideration, kind regards John Lyall.

So we bring it back to the Board for further questions. Actually my first one is those are three individual people that live right around the building itself all concerned with flooding to their property. Yet you're stating that you don't perceive any flood issues or water drainage problems.

MR. ZIMMERMAN: Well, I don't think that there would be, you know, we did submit and we have some photographs of the adjoining properties. You know, I don't know that this lot was filled any extent. I'm not saying it hadn't been leveled off, but if you look at the photographs they show that they're pretty much in line with elevation wise the houses, the lawns on both sides. The drainage that will take place from this lot there are roadside swales. I mean we're going to build a single house and, you know, you'll have what I see is typical drainage like from the house on both sides. I don't know if any of the Board members have been to the property but, you know, I think the pictures would show in and of itself that it's a vacant lot and putting a single house on it I don't see it causing a, any type of drainage problems that, you know, these, this gentleman who wrote the letter. And I think that

the photographs themselves would speak to that fact.

MR. KANE: Any further questions from the Board?

MR. SCHEIBLE: Your client's going to be an occupant of this house?

MR. ZIMMERMAN: No, no, he will be building it.

MR. SCHEIBLE: He is building on spec?

MR. ZIMMERMAN: For someone, yes.

MR. TORPEY: How many mailings were there, Mike?

MR. KANE: 24.

MR. TORPEY: That's it? There's a lot of houses around there.

MR. KANE: There's some bigger pieces of property too. So, you know, 500 feet within the property lines you're not going to get too many. Any further questions?

MR. TORPEY: No, I'm good.

MR. KANE: Have you determined the footprint of the house?

MR. ZIMMERMAN: We have that on the plot plan that was submitted. That's how we got to determine the side yard requirements.

MRS. PELESHUCK: Is that 50 by 28?

MR. ZIMMERMAN: Yes, 50 by 28.

MR. KANE: Okay. And that's similar in size and nature to a two story home?

MR. ZIMMERMAN: Yes.

MR. KANE: Similar in size and nature to other homes in the neighborhood?

MR. ZIMMERMAN: Well, the adjoining house Lyall,

if you look at that footprint, it's the same size.

MR. KANE: Any further questions from the Board?
No questions I'll accept a motion.

MR. SCHEIBLE: Since they verified, Mr. Krieger,
all it has to go through is the County Health
Department?

MR. KRIEGER: Yes. The law is that before --

MR. SCHEIBLE: The well.

MR. KRIEGER: -- the well and septic they have to
get permits from the county health department.

MR. TORPEY: I know for a fact the county comes
out and does it for you.

MR. SCHEIBLE: I wanted that in the minutes, okay.

MR. KRIEGER: Yes.

MR. KANE: I'll accept a motion.

MR. HAMEL: I'll make a motion we grant the KC
Engineering and Land Survey the variance size
required.

MR. KANE: Variances.

MR. KRIEGER: Variances.

MR. TORPEY: I second that.

Roll Call

Mr. Scheible	Yes.
Mr. Bedetti	Yes.
Mr. Hamel	Yes.
Mr. Torpey	Yes.
Mr. Kane	Yes.

MR. KANE: Tonight's last public hearing Joanna Mollard, a variance for proposed 16-foot by 26-foot deck will be 33 feet from the rear property line, a variance of 17 feet is requested at 64 Harth Drive in an R-4 zone.

Same as the preliminary, come up, tell us what you want to do. Speak loudly for that young lady over there.

MR. LAWRENCE: My name is Joe Lawrence. This is Joanna Mollard. We live at 64 Harth Drive, New Windsor. We are looking to build a 16 by 26 deck. It is within 33 feet of the property line.

MR. KANE: Cutting down any trees, substantial vegetation and building of the deck?

MR. SHAH: No.

MR. KANE: Creating any water hazards or runoffs?

MR. LAWRENCE: No, sir.

MR. KANE: Any easements running through the area where the deck is?

MR. LAWRENCE: No, sir.

MR. KANE: The 16 by 26 deck is it similar in size and nature to other decks that are in your neighborhood?

MR. LAWRENCE: Sure.

MR. KANE: My understanding is you're going to put a sliding door coming out --

MR. LAWRENCE: Yes.

MR. KANE: -- towards the deck? And how many feet off the ground would that door be?

MR. LAWRENCE: I think it's 3 feet 10 inches something like that. It's maybe 4 feet, say 4 feet.

MR. KANE: Just again according with your form, just to get it out of the way, there is no

in-ground pool in your backyard?

MR. LAWRENCE: No, I wish there was but there wasn't.

MR. BEDETTI: Just for the record, Mr. Chairman, I'm within the 500 feet of their house. I don't know if that's a problem with the Board or with the applicants but if it is.

MR. KANE: I don't see any problem with that myself, but that's why we have him.

MR. KRIEGER: You live in the neighborhood?

MR. BEDETTI: I live within the 500 because I got the letter.

MR. KANE: No, it's not an issue. Thank you, for bringing that up. Let me get this out of the way now, we'll open the public portion of the meeting and ask if there's anybody here for this particular hearing?

How many mailings did they have?

MRS. PELESHUCK: On the 12th day of July 2011 I prepared 74 addressed envelopes and received no written responses back.

MR. KANE: Bringing it back to the Board. Further questions?

MR. BEDETTI: I'd just like to make a comment, I think the way their house is situated the only two people that might conceivably have, be affected at all would be behind them. There seems to be a sort of a hedge row, there's enough privacy there, there doesn't appear to be any direct line of sight into anybody's boudoir. It looks like a reasonable request.

MR. KANE: Okay, good. Any further comments from the Board? If not I'll accept a motion.

MR. BEDETTI: I'll make a motion that we grant Joanna Mollard a variance for a proposed 16 by 26 deck at 64 Harth Drive in an R-4 zone.

MR. TORPEY: Second it.

Roll Call:

Mr. Scheible	Yes.
Mr. Bedetti	Yes.
Mr. Hamel	Yes.
Mr. Torpey	Yes.
Mr. Kane	Yes.

(Whereupon, the meeting was concluded.)

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C E R T I F I C A T I O N

THE FOREGOING IS CERTIFIED

to be a true and correct transcription of the
original stenographic minutes to the best of my
ability.

A handwritten signature in cursive script, reading "Roberta O'Rourke", written in dark ink.

Roberta O'Rourke